

***Remarks***

Claims 1-21 are pending.

**Rejections under 35 USC 103**

All of the claims stand rejected under 35 USC 103(a) as obvious over Thorey et al. in view of Zambrowicz et al. (Int. J. Dev. Biol. (1998) Vol. 42, pp1025-1036), in further view of Velculescu et al. (Science (1995) Vol. 20, pp 484-487), and in further view of ), in further view of newly cited reference Wan et al. (Journal of Molecular Endocrinology (2002) Vol. 28, pp 177-192; copy enclosed). In imposing this rejection, the Examiner has essentially restated previously imposed obviousness rejections, but has used the reference of Wan et al. as a basis for contending that it would have been obvious to target a cell lineage specific gene promoter based on the contention that Wan et al. disclose identification of genes that are regulated by hormones using a Cre/loxP mediated retroviral promoter trapping strategy. It is further asserted that hormone regulated gene promoters constitute examples of cell lineage specific gene promoters.

In response, Applicants respectfully disagree with the characterization of Wan et al. set forth in the Office Action. Specifically, Applicants submit that the target vector that reports on activity of Cre recombinase in this reference IS NOT hormone or tissue specific. Rather, it is a ppgklxlkneo/hygro construct as shown in figure 1, or ppgklxlkneo/luc construct, as shown in figure 4. In each case, the reporter is driven from the P<sub>gk</sub> promoter, which is a constitutively expressed promoter. However, and as placed on the record in Applicant's previous response, which is reiterated here, a gene driven from a constitutive promoter remains constitutively expressed, irrespective of whether the promoter endogenous to the gene in which it was inserted is active or inactive due to, for example, changes in gene expression patterns related to embryonic development. Thus, Applicants submit the citation of Wan et al. does not remedy the deficiencies in the teachings of Thorey et al., Zambrowicz et al. and Velculescu et al. acknowledged in the Office Action, and therefore a *prima facie* case of obviousness has not been made. The Examiner is thus respectfully requested to remove the stated rejection.

***Conclusion***

In view of the foregoing, Applicants believe all of the claims are now in condition for allowance and courteously request the Examiner to remove the rejections and allow all of the claims.

Applicants request a two-month extension of time to file this response. A check for the required fee is enclosed. A request for continued examination along with the required fee is also enclosed. Any additional fees required (or any overpayment made) may be charged to Deposit Account no. 08-2442.

Respectfully submitted,

By: 

John D. Lopinski, Ph.D., Reg. No. 50,846

HODGSON RUSS LLP  
The Guaranty Building  
140 Pearl Street, Suite 100  
Buffalo, NY 14202-4040  
(716) 848-4130

Dated: February 19, 2008